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## **I. INTRODUCTION**

### **A. PURPOSE AND SUMMARY**

H.R. 4103 would extend and modify the trade benefits under the African Growth and Opportunity Act.

### **B. BACKGROUND**

#### **1. THE AFRICAN GROWTH AND OPPORTUNITY ACT (AGOA)**

The African Growth and Opportunity Act was signed into law by President Clinton on May 18, 2000, as Title 1 of The Trade and Development Act of 2000. AGOA offers tangible incentives for sub-Saharan African (SSA) countries to continue their efforts to open their economies, promote the rule of law, build free markets, and encourage investment in the region. President Bush signed amendments to AGOA into law on August 6, 2002, as Section 3108 of the Trade Act of 2002 (Public Law 107-210). These amendments expanded preferential access for imports from beneficiary sub-Saharan African countries and thereby improved the operation and utilization of the AGOA program and encouraging more investment in the region.

There are currently 37 countries eligible for AGOA benefits. Of those, only 24 are eligible for the apparel benefits. Twenty-two countries eligible for the apparel benefits meet the criteria for use of the Special Rule allowing use of third country fabric (for more information see sections below regarding AGOA benefits).

#### *General AGOA Benefits*

AGOA authorizes the President to provide duty-free treatment under the U.S. Generalized System of Preferences (GSP) for any article when imported from African

countries if the United States Trade Representative (USTR) and the United States International Trade Commission (USITC) have determined that the article is not import sensitive in the context of imports from SSA countries. On December 21, 2000, the President extended duty free treatment under GSP to AGOA-eligible countries for more than 1,800 tariff line items in addition to the standard GSP list of approximately 4,600 items available to non-AGOA GSP beneficiary countries. The duty-free treatment for the additional 1,800 products available to AGOA countries only, implemented after an extensive process of public comment and review, include such previously GSP-excluded items as footwear, luggage, handbags, watches, and flatware.

In addition to the broader product list, AGOA extended GSP for eligible SSA beneficiaries until September 30, 2008, two years longer than GSP beneficiaries in other regions (GSP expires for non-AGOA countries December 31, 2006). Sub-Saharan Africa beneficiary countries are also exempted from competitive need limitations that cap the GSP benefits available to beneficiaries in other regions.

### *Apparel Provisions*

AGOA provides duty-free and quota-free access to the U.S. market for apparel made in eligible sub-Saharan African countries from U.S. fabric, yarn, and thread. It also provides for a substantial and growing quantity of duty-free apparel imports (subject to a cap) made from fabric produced in beneficiary SSA countries. Preferential treatment for apparel took effect on October 1, 2000, but beneficiary countries must first establish that they have effective visa systems to prevent illegal transshipment and use of counterfeit documentation and that they have instituted required enforcement and verification procedures. Under the initial AGOA legislation, apparel imports made with regional (African) fabric and yarn were subject to an initial cap of 1.5 percent of overall U.S. apparel imports, growing to 3.5 percent of overall imports over an 8-year period. The

2002 AGOA amendments doubled the applicable percentages of the cap to 7 percent. The table below shows the fill rate for each quota period's cap, measured in square meter equivalents (SMEs):

	<b>Cap in SMEs</b>	<b>Imports</b>	<b>Fill Rate</b>
<b>Quota Period 2004 (first 6 months)</b>	956,568,715	172,343,579	18.02%
<b>Quota Period 2003</b>	735,905,928	264,469,209	35.94%
<b>Quota Period 2002</b>	313,303,986	187,753,717	59.93%
<b>Quota Period 2001</b>	246,500,393	41,769,757	16.95%

Under a Special Rule for Lesser Developed Beneficiary Countries (LDBC), commonly referred to as the third country fabric provision, those countries with a per capita Gross National Product (GNP) under \$1,500 enjoy duty-free access for apparel made from fabric originating anywhere in the world until September 30, 2004. Apparel imported under the Special Rule is subject to a cap within the overall 7 percent cap (measured in SMEs, with no dollar equivalent). In the initial AGOA legislation, the Special Rule and regional fabric were capped together at 1.5 percent growing to no more than 3.5 percent of total U.S. apparel imports. The 2002 AGOA amendments doubled the overall cap to 7 percent but maintained a cap for apparel imported into the United States under the Special Rule at the original cap, i.e., 3.5 percent at the end of the period. For FY2003 the Special Rule cap was 2.0714 percent and has risen to 2.3571 percent in FY2004. Twenty-two countries have been designated as eligible for the Special Rule. The 2002 AGOA amendments also granted LDBC status to Botswana and Namibia,

qualifying both countries for the Special Rule. The table below shows the fill rate for the Special Rule:

	<b>Cap in SMEs</b>	<b>Imports</b>	<b>Fill Rate</b>
<b>Quota Period 2004 (first 6 months)</b>	470,411,241	151,504,106	32.21%
<b>Quota Period 2003</b>	359,399,147	222,391,233	61.88%
<b>Quota Period 2002</b>	313,303,986	158,878,925	50.71%
<b>Quota Period 2001</b>	246,500,393	35,469,291	14.39%

The U.S. Secretary of Commerce is directed to monitor apparel imports on a monthly basis to guard against surges. If increased imports are causing or threatening serious damage to the U.S. apparel industry, the President is authorized to suspend duty-free treatment for the article(s) in question. To date, there have been no requests for such relief.

#### *Other Provisions*

AGOA directs the President to organize a U.S.-sub-Saharan Africa Trade and Economic Forum, to be hosted by the U.S. Secretaries of State, Commerce, Treasury, and the U.S. Trade Representative. The Forum is to serve as the vehicle for a regular dialogue between the United States and SSA countries on issues of economics, trade, and investment. The Forum benefited greatly from concurrent fora presented by the private sector and civil society.

The U.S. Secretary of Commerce is directed to ensure that at least twenty full-time Commercial Service employees are assigned in at least ten different Sub-Saharan African countries, subject to the availability of appropriations. AGOA also calls for annual reports to Congress through 2008 on U.S. trade and investment policy in Africa and implementation of the Act.

AGOA Success and Support: The AGOA program has been a success for U.S. policy toward SSA. AGOA has helped expand SSA trade and brought about improvements in economic conditions in SSA. Expanded trade opportunities not only help sub-Saharan African countries develop a sustainable economic base but also foster efficient government practices, political stability, and a well-grounded rule of law. AGOA's eligibility requirements have reinforced democratic values and strengthened adherence to international recognized worker rights in eligible sub-Saharan African countries. These requirements will continue to be a useful tool to combat corruption, improve worker conditions, and encourage greater transparency with regard to revenues in the natural resource sectors. According to the USITC's "Fourth Annual Report on U.S. Trade and Investment with Sub-Saharan Africa," in addition to spurring increased trade and investment, AGOA has begun to influence other activities that could be beneficial to SSA's long-term economic growth, including the improvement in business climate (for example, investing in infrastructure or implementing reforms, such as reduction of bureaucracy) and the encouragement of regional cooperation and integration to take advantage of AGOA benefits. The program has been lauded by African leaders, civil society organizations, American firms, and Congressional leaders of both parties. One African leader described the program as "the greatest friendship act" by the U.S. government towards Africa. The Committee has been told that program has been so well-received and effective in Africa that the European Union is reexamining its preference program for Africa in light of AGOA's success.

## 2. TRADE WITH SUB-SAHARAN AFRICA

### *U.S. Exports*

U.S. exports to SSA increased 13 percent from 2002 to 2003 and continue to be greater than those to the former Soviet Republics and Central and Eastern Europe combined. From 2000 to 2003, the United States averaged just over \$6.2 billion in merchandise exports to SSA per year, which accounted for less than 1 percent of average total U.S. exports during that period of \$665 billion. The top five export markets in SSA in 2003 for U.S. goods were, in order: South Africa, Nigeria, Angola, Ethiopia, and Equatorial Guinea. The top three U.S. exports to SSA in 2003 were certain machinery parts, wheat (other than durum), and airplanes and other aircraft.

### *U.S. Imports*

The United States is sub-Saharan Africa's largest single export market, accounting for 26 percent of the region's total exports in 2001 alone. From 2000 to 2003, the United States merchandise imports from the world averaged \$1.2 trillion a year, while U.S. imports from SSA averaged \$21.8 billion a year, or approximately 2 percent of total U.S. imports per year over that time period. U.S. imports under AGOA (excluding GSP) have almost doubled from their 2001 level of \$7.6 billion to their 2003 level of \$13.2 billion. The top five countries in SSA from which the U.S. imported the most goods in 2003 were Nigeria, South Africa, Angola, Gabon, and Equatorial Guinea. The top three U.S. imports from SSA in 2003 were petroleum oils, platinum, and distillate and residual fuels. In 2003, there were three apparel items in the top ten U.S. imports from SSA: women's or girl's trousers/shorts, sweaters/pullovers, and men's or boy's trousers/shorts.

### *Investment Flows*

The United States is the leading provider of foreign direct investment to Africa, but U.S. net direct investment flows to Africa in 2002, at \$861 million, accounted for less than 1 percent of total U.S. direct investment abroad. Nigeria and South Africa attracted the largest amounts of U.S. foreign investment flows: \$922 million and \$112 million, respectively. On balance, continuing net positive flows of U.S. direct investment into Africa yielded an increase of 12.3 percent in the U.S. direct investment position, which totaled \$15.1 billion in 2002. At the same time, 150,000 AGOA-related jobs have been created.

U.S. International Trade Commission officials believe that the United States has relatively little portfolio investment in SSA due to the fact that few countries in the region have well-established stock exchanges and few SSA companies are listed on U.S. exchanges. U.S. portfolio investment in SSA is largely channeled through investment companies that integrate stocks of SSA companies into broader emerging market mutual funds. Because the mining and extractive sectors consistently attract portfolio investment, it is likely that U.S. portfolio investment in SSA will continue to be concentrated in South Africa and, to a lesser extent, Nigeria.

#### *Millennium Challenge Account (MCA)*

The United States provides trade capacity building assistance to SSA, and from 1999-2002 the United States provided over \$345 million in assistance. Building on the successes of trade capacity building and the continued U.S. commitment to global economic development, President Bush in 2002 announced his intent to establish a special development assistance program, the Millennium Challenge Account. The goal of the MCA is to achieve poverty reduction through economic growth by investing in areas such as agricultural development, education, enterprise and private sector



development, governance, health, and trade and investment capacity building. The MCA will increase core U.S. development assistance by 50 percent over the next few years, reaching annual levels by FY2006 that are \$5 billion higher than core assistance when the MCA was announced. Even though the MCA is a global initiative, it is anticipated that a substantial portion of its funding will go to SSA.

### *Internal Conditions Affecting Trade and Development*

In 2002, Africa's average gross domestic product (GDP) growth rate was 3.2 percent, down from 2001's average 4.3 percent. The USITC's "Fourth Annual Report on U.S. Trade and Investment with Sub-Saharan Africa" concludes that this declining average growth rate was attributed primarily to a weaker global economy, slower than expected rebound in world trade, drought in some parts of SSA, the impact of HIV/AIDS, and the eruption of social and political conflict in a number of countries across the continent. Although sub-Saharan Africa's average GDP growth rate continued to fall short of the estimated 7 percent required to reduce poverty significantly, five countries (Equatorial Guinea, Mozambique, Angola, Chad, and Rwanda) achieved a 7 percent or higher growth rate in 2002. The same USITC report concludes that efforts by SSA countries to increase integration into the global trading economy continue to be hampered by a number of obstacles, including social and political conflict and inadequate infrastructure, such as dilapidated road networks, congested ports, inefficient customs services, and prohibitively expensive air transport.

Despite sub-Saharan Africa's increased participation in the global economy in the past few years and the accrual of benefits from the AGOA program, these systemic issues and inefficiencies prevent SSA from fully reaping the benefits of its trade relationship with the United States. A recent study by Paul Brenton and Takako Ikezuki of the World Bank - "The Initial and Potential Impact of Preferential Access to the U.S. Market under

the African Growth and Opportunity Act” - states “only when customs clearance procedures are improved, costs of transport and other trade related services are reduced and corruption and other disincentives toward investment are removed, will the full potential of preferential access to the United States under AGOA be realized.”

#### *U.S.-Southern African Customs Union (SACU) FTA*

In June 2003, the United States launched free trade agreement negotiations with the five countries of the Southern African Customs Union (SACU): Botswana, Lesotho, Namibia, Swaziland, and South Africa. Pursuant to the direction Congress expressed in AGOA for the Administration to seek free trade negotiations with interested SSA countries, the U.S.-SACU FTA will be a catalyst for increasing trade and investment between the United States and SSA. While the SACU countries have already achieved some modest successes benefiting from the one-way preferences of AGOA, this FTA will mark a progression in the trading relationship by moving to a two-way set of commitments. Building on the objectives of AGOA, trade capacity building is a fundamental element of bilateral cooperation in support of this FTA. The Cooperative Group on Trade Capacity Building has been formed and meets separately to identify and satisfy trade capacity building needs arising out of the FTA discussions. By May 2004, five rounds of negotiations have been held with the intensity of the negotiations expected to increase in an effort to conclude the negotiations by the end of 2004.

### C. LEGISLATIVE HISTORY

#### *2003 Congressional Delegation to the AGOA Forum in Mauritius*

On January 12 – 23, 2003, Chairman Thomas led a bipartisan delegation of Members of Congress to an international forum established in AGOA. The delegation

visited Namibia, South Africa, Madagascar, and Mauritius and toured several new firms established as a result of the trade benefits created by AGOA. The delegation participated in several speaking and discussion events at the AGOA forum in Mauritius. In January 2003 the Committee filed its “Report on Trade Mission to Sub-Saharan Africa” (WMCP: 108-2), which outlined the Committee’s conclusions from the Congressional Delegation. The Committee found that AGOA had been very successful and had helped to create many jobs, particularly in the apparel sector. The expiration of the third country fabric benefits for the least developed countries in 2004 was the issue most discussed during the delegation's visit. The Members met with many African leaders who were very supportive of an extension. There was evidence that countries generally lacked sufficient current capacity to provide fabric for apparel manufacturing, and Members learned about planned investments in textile capacity but that such investment would need time to become operational. In its report, the Committee concluded that the best approach on third country fabrics is one of balance--i.e., providing incentives in the cut-and-sew area to bootstrap Africa into more value-added fabric production by creating a solid workforce and infrastructure and then transferring those skills to high-end production.

Members noted the value of the programs presented by civil society and acknowledged their special expertise. Some Members made the point that just as the United States benefits from receiving civil society comments in the AGOA eligibility review process, African governments should also consider input from civil society organizations when developing strategies to implement and maximize benefits under AGOA.

#### *2003 WTO Ministerial in Cancun*

Committee Members met with a number of African leaders during the WTO’s

Cancun Ministerial and in Washington during the AGOA Forum to discuss the operation of the AGOA. These leaders told the Committee that the legislation has led to substantial investment in African countries, improved the standard of living for thousands of Africans, and aided in general development of many poor African regions. However, many of these officials requested an extension of the program benefits and various enhancements to the program, while others expressed concern that extension of eligibility for the use of third country fabric could discourage regional fabric production.

### *Hearing on President Bush's Trade Agenda*

On March 11, 2004, Ambassador Zoellick testified before the Committee and stated the Administration's support for "legislation on AGOA that will accelerate its gains, including by extending provisions and enabling countries to take full advantage of AGOA through enhanced technical assistance." In response to questions about extension of the third country fabric benefits of AGOA, Ambassador Zoellick stated that a one-year extension would not be enough.

### *2004 Hearing on AGOA*

On April 29, 2004, the Subcommittee on Trade held a hearing on U.S. trade relations with sub-Saharan Africa and H.R. 4103, the Africa Growth and Opportunity (AGO) Acceleration Act. The Subcommittee received testimony from both invited and public witnesses, many of whom expressed support for the original AGOA program as well continuing the trade relationship in order to continue building the long-term economic viability of sub-Saharan Africa. Witnesses from the U.S. private sector and representatives of three sub-Saharan African governments (Lesotho, Mauritius, and Kenya) expressed support for H.R. 4103. While supportive of AGOA and its general objectives, several witnesses stated that the AGOA program needed to strengthen other

areas of sub-Saharan trade, including agriculture, the development of infrastructure to better facilitate increasing trade, and poverty alleviation. One witness, the Union of Needletrades, Industrial and Textile Employees (UNITE!) expressed support for AGOA's overall goal of development but expressed disappointment with regard to a lack of enforcement of core international labor standards in the region.

The hearing raised many issues related to the importance of extending the overall program, as well as the critical need for an extension of the third country fabric provision. Witnesses supported the extension of AGOA in H.R. 4103 to 2015 from its current end-date of 2008. An end-date of 2015 is consistent with the Administration's proposal in the WTO to seek elimination of all tariffs worldwide by that time. African countries and the private sector also expressed support for the provision allowing lesser-developed countries to use non-U.S. and non-AGOA fabric in the production of AGOA-eligible apparel. Because this provision is due to expire September 30, 2004, the private sector and many African countries and Members noted their support for H.R. 4103, which extends the provision for another three years to allow AGOA beneficiaries additional time to attract and develop yarn and fabric manufacturing that will supply the infant apparel industry in these countries. Lastly, several witnesses and Members complained of implementation setbacks such as unexpected and narrow interpretations by Administration officials that restrict the import of AGOA-eligible apparel. Members voiced their support for most of the points raised and remained strongly supportive of correcting and enhancing provisions to allow for broad and liberal use of the programs to give African countries access to the U.S. market.

H.R. 4103, The AGOA Acceleration Act of 2004: On April 1, 2004, Chairman Thomas together with Representatives McDermott (D-WA), Crane (R-IL), Rangel (D-NY), Royce (R-CA), Houghton (R-NY), Neal (D-MA), Dunn (R-WA), Jefferson (D-LA), Weller (R-IL), Brady (R-TX), Payne (D-NJ), and Levin (D-MI) introduced H.R. 4103,

the AGOA Acceleration Act.

On May 5, 2004, the Committee on Ways and Means met to consider H.R. 4103. The Chairman offered a bipartisan amendment in the nature of a substitute, which the Committee approved. The Committee ordered H.R. 4103, as amended, favorably reported to the House of Representatives by a voice vote with a quorum present.

## **II. SECTION BY SECTION SUMMARY**

### **Section 1: Short Title**

#### *Current Law:*

No provision.

#### *Explanation of Provision:*

Section 1 provides that the Act may be cited as the “AGOA Acceleration Act of 2004.”

#### *Reason for Change:*

The section identifies the short title for the bill.

### **Section 2: Findings**

#### *Current Law:*

No provision.

#### *Explanation of Provision:*

Section 2 states various findings by the Congress. Congress finds that AGOA has had a positive effect on economic growth and reforms in sub-Saharan Africa through

increases in foreign investment and job creation, but Africa continues to face challenges such as inadequate infrastructure and HIV/AIDS. African countries continue to need trade capacity and technical assistance to establish viable economic capacity, a well-grounded rule of law, and efficient government practices.

*Reason for Change:*

The findings reflect Committee Members' observations from meetings with African leaders, the hearing on trade with Africa, and the Congressional Delegation to Africa in 2003.

**Section 3: Statement of Policy**

*Current Law:*

No provision.

*Explanation of Provision:*

Section 3 states several policy goals by the Congress. Congress supports a continued commitment to increase trade and investment and to reduce obstacles to trade between the United States and sub-Saharan Africa. It additionally backs the development of sub-Saharan Africa's physical and financial infrastructure and business partnerships between United States and African firms. Congress also endorses a comprehensive and ambitious trade agreement with the Southern African Customs Union international efforts to fight serious health problems including HIV/AIDS.

*Reason for Change:*



The statements of policy in this section reflect the Committee's conclusions of the best way to pursue and develop a long-lasting and healthy trade relationship with countries of sub-Saharan Africa.

#### **Section 4: Sense of Congress on Reciprocity and Regional Economic Integration**

##### *Current Law:*

No provision.

##### *Explanation of Provision:*

Section 4 expresses the Sense of Congress that eligible sub-Saharan African countries will greatly enhance their preferential market access opportunities by implementing their WTO obligations and supporting mutual trade liberalization.

##### *Reason for Change:*

The Committee has noted the concerns of African countries in liberalizing trade in the context of current WTO negotiations. The Committee believes that AGOA benefits will be complemented and enhanced if AGOA countries comply with their WTO obligations and support mutual trade liberalization in ongoing negotiations. USTR officials have told the Committee that trade liberalization is in the interest of all developing countries, noting that 70 percent of the tariffs paid by developing countries are to other developing countries. Accordingly, AGOA countries will benefit from reducing barriers in other developing countries, particularly those representing the largest potential markets for African goods and services. At the same time, the Committee

recognizes that new WTO commitments may need to reflect special and differential treatment for developing countries.

## **Section 5: Sense of Congress on Interpretation of Textile and Apparel Provisions of AGOA**

### *Current Law:*

No provision.

### *Explanation of Provision:*

Section 5 provides a Sense of Congress that the Executive Branch, including the Committee for the Implementation of Textile Agreements, the Bureau of Customs and Border Protection of the U.S. Department of Homeland Security, and the U. S. Department of Commerce, should implement and enforce the provisions of AGOA relating to preferential treatment of textile and apparel articles broadly to expand trade by maximizing opportunities for imports of such articles from Africa.

### *Reason for Change:*

The Committee has noted the frequent frustration of Congressional intent by Federal agencies implementing AGOA. Congress has been forced to revisit many issues in the original AGOA legislation and reverse decisions by the Executive Branch that have denied benefits to imports that Congress fully intended to cover. This provision admonishes Federal agencies to recognize the importance of interpreting the AGOA law in a trade liberalizing manner.

## **Section 6: Definition**

### *Current Law:*

No provision.

### *Explanation of Provision:*

Section 6 defines the term “eligible sub-Saharan African country” as used frequently in the Act to mean those eligible sub-Saharan African countries under AGOA.

### *Reason for Change:*

The definition is necessary to clearly define the universe of countries affected by provisions in the legislation.

## **Section 7: Extension of African Growth and Opportunity Act**

### *Current Law:*

The AGOA program expires on September 30, 2008. The third country benefit provision of AGOA expires on September 30, 2004.

Section 112(b) (1), (2), and (3) of existing law (19 U.S.C. 3721) provides that apparel products that originate in the United States or AGOA eligible countries shall receive preferential treatment under AGOA; however, the U.S. Bureau of Customs and Border Protection has interpreted section 112 restrictively to deny benefits when an apparel product consists of a combination of U.S. and AGOA eligible inputs.

Section 112(b) (5) (A) of existing law provides for preferential treatment for apparel articles that are made from fabric or yarns identified in Annex 401 of the NAFTA. Annex 401 identifies products not produced in the United States or another NAFTA country (i.e., Canada or Mexico) and is designed to allow flexibility in sourcing these products. The provision applies only if the fabric or yarn is not formed in the United States or a beneficiary sub-Saharan African country.

Section 112(b)(6) of existing law provides for preferential treatment for hand loomed, handmade, and folklore articles but does not specifically name ethnic printed articles. The Bureau of Customs and Border Protection has ruled that ethnic printed articles made from machine woven fabric are not covered by existing law.

The current AGOA law has no provision related to use of inputs from former AGOA-eligible countries that “graduate” from the program because they enter into free trade agreements with the United States.

Section 112(d) of existing law provides for special rules related to certain findings and trimmings but does not cover certain components such as collars, cuffs, drawstrings, waistbands, belts attached to garments, patches, straps using elastic, and padding and shoulder pads.

Section 112(d) (2) of existing law provides a *de minimis* rule. Articles otherwise eligible for preferential treatment under this section are not ineligible because the article contains fibers or yarns not wholly formed in the United States or one or more beneficiary sub-Saharan African countries if the total weight of all such fibers and yarns is not more than 7 percent of the total weight of the article.

*Explanation of Provision:*

Section 7(a) would extend the AGOA program from its current deadline of 2008 until 2015.

Section 7(b)(2)(A) would clarify an existing provision in AGOA to allow apparel articles that are eligible for benefits because they contain fabric formed in AGOA beneficiary countries to remain eligible for benefits even if they include U.S. components or fabric in any combination.

Section 7(b) (2) (B) would extend the current deadline for use of third country fabric benefits from September 30, 2004, until September 30, 2007. Benefits in 2005 and 2006 would remain capped, growing at the existing rate and then decrease by fifty percent in the final year of 2007. The current rate for 2004 is approximately 2.3% of total U.S. imports.

Section 7(b)(3) clarifies as AGOA-eligible apparel made from fabrics or yarns that are identified in Annex 401 to the NAFTA without regard to the origin of the fabric or yarns, i.e., these fabrics or yarns may now be manufactured in the United States or an AGOA beneficiary country. Goods identified in Annex 401 are recognized as being in short supply in the United States.

Section 7(c) would clarify the existing provision in AGOA providing AGOA benefits for African ethnic printed fabric even if made by machine provided such fabric meets certain criteria. Specifically, the fabric must have a width of less than 50 inches, have designs, symbols, and characteristics of African prints normally produced for the indigenous African market, and be sold by the piece.

Section 7(d) provides that AGOA-eligible products may continue to use inputs from countries that are no longer AGOA beneficiaries because they have entered into a free trade agreement with the United States.

Section 7(e)(1) provides for a special rule to allow use of certain components (collars, cuffs, drawstrings, waistbands, belts attached to garments, patches, straps using elastic, and padding and shoulder pads) in AGOA eligible apparel products. An article otherwise eligible for preferential treatment under Section 112 of existing law would not be ineligible for such treatment because the article contains these components that do not meet the origin requirements of section 112. The component “belts attached to garments” covers belts that are manufactured to accompany garments and will be sold together with garments at retail but need not actually be sewn onto garments.

Section 7(e)(2) raises the current *de minimis* level of 7 percent for non-AGOA originating fibers and yarns in apparel to 10 percent.

*Reason for Change:*

The Committee seeks to extend the AGOA program from its current deadline of 2008 until 2015 in section 7(a) in order to reinforce U.S. commitment to Africa and the AGOA program.

Section 7(b)(2)(A) reverses an interpretation of AGOA by the U.S. Bureau of Customs and Border Protection requiring that an article contain either all U.S. fabric or components or all AGOA fabric or components, but not a combination of both. Section 7(b)(2)(A) was also included in section 2004 of H.R. 1047, the Miscellaneous Trade and Technical Corrections Act of 2004.

The extension in section 7(b)(2)(B) of the current deadline for use of third country fabric benefits of September 30, 2004, until September 30, 2007, received more comments by the public, Members of Congress, and African leaders than any other provision during Committee investigation; the extension of this provision is considered by many to be the most important feature of H.R. 4103. The purpose of the provision is to continue to attract the needed basic investment in SSA without compromising the goal of developing regional apparel production. In the original AGOA law, the initial short period (four years) allowing for the use of third country fabric was aimed at allowing AGOA countries to attract quick investment and establish facilities and infrastructure to manufacture apparel from non-AGOA fabric and yarn inputs and then transition to regionally produced fabric and yarn.

The dilemma in extending this period beyond September 30, 2004, is that some AGOA countries are poised to develop fabric industries that could provide inputs to other countries and, thus, reinforce regional partnerships and development in general in SSA. Long-term use of third country fabrics or components in AGOA-eligible imports could create a risk that AGOA manufacturers will rely exclusively on non-AGOA inputs, which may discourage the development of meaningful regional fabric production. Nonetheless, given the slow start that many countries had in becoming eligible under AGOA, an extension of the third country fabric provision is necessary to allow countries to attract and entrench investments and build the critical mass necessary for diversification and vertical integration of apparel manufacturing. Thus, the three-year provision in H.R. 4103 is designed to provide a pragmatic approach that balances the needs of the sub-Saharan African countries, both fabric and apparel makers.

Section 7(b)(3) clarifies the use of short-supply inputs into AGOA eligible apparel products, and these short-supply fabrics or yarns may now be manufactured in the United States or an AGOA beneficiary country. Specifically, the Committee has concluded that

there is no reason to maintain the current restriction against U.S. or AGOA-made inputs being used in AGOA eligible apparel. Section 7(b)(3) was also included in section 2004 of H.R. 1047, the Miscellaneous Trade and Technical Corrections Act of 2004.

Section 7(c) would clarify the existing provision in AGOA providing AGOA benefits for African ethnic printed fabric. This provision would thereby reverse a decision by U.S. textile import authorities that restricted print imports to those made by traditional methods and not by machine. The Committee believes that the criteria set forth in H.R. 4103 will prevent abuse of the provision.

Section 7(d) provides that AGOA eligible products may continue to use inputs from countries no longer AGOA beneficiaries because they have entered into a free trade agreement with the United States. The provision anticipates conclusion of a U.S. free trade with the five members of the Southern African Customs Union, some of which produce inputs that may be used by AGOA countries. The Committee hopes that the provision will promote further regional economic integration.

Section 7(e)(1) addresses the Committee's concern that African apparel manufacturers may be unable to produce certain garments because they will be unable to obtain certain components made from U.S. or African inputs once the provision allowing use of third country fabrics expires in three years. This section would allow sourcing of these components regardless of country of origin. These components represent a very small part of any finished apparel good but are sufficiently different from fabric production and may be expensive to manufacture in commercially feasible quantities. The Committee is concerned that the burden of developing a source within Africa for such specialized components may be too great for a fledgling African apparel industry that is already struggling with developing significant fabric production. Accordingly, Members adopted the finite list of components found in section 7(e)(1).



In developing this list of components, the Committee drew on the assistance of the U.S. International Trade Commission, the U.S. Department of Commerce, private and public sector testimony, and direct Member observations of African apparel operations.

Section 7(e)(2), which would increase the *de minimis* level for AGOA inputs from 7 percent to 10 percent, would conform the *de minimis* rule to those currently being negotiated in trade agreements such as the Central American Free Trade Agreement. The Committee believes that the increase will provide AGOA countries with additional sourcing flexibility.

## **Section 8: Entries of Certain Apparel Articles Pursuant to the African Growth and Opportunity Act**

### *Current Law:*

Section 3108 of the Trade Act of 2002 provides that knit-to-shape garments assembled in beneficiary countries should receive preferential treatment under AGOA. That provision reversed a U.S. Bureau of Customs and Border Protection regulation that stipulated that such garments, because technically they do not go through the fabric stage, were not eligible for benefits. Section 3108 of the Act is effective only on a prospective basis.

### *Explanation of Provision:*

Section 8 extends duty-free benefits retroactively to October 1, 2000, to apparel that was knit-to-shape in an AGOA-eligible country.

### *Reason for Change:*

Congress took action in the Trade Act of 2002 to clarify that articles knit-to-shape in AGOA-eligible countries should be covered by the Act. Section 8 of the bill would apply that change retroactively to the time of enactment of the original AGOA law in 2000. The proposed language in section 8 was also included as section 1608 of H.R. 1047, the Miscellaneous Trade and Technical Corrections Act of 2004.

## **Section 9: Development Study and Capacity Building**

### *Current Law:*

No provision.

### *Explanation of Provision:*

Section 9 directs the President to submit a report to Congress, no later than a year after the enactment of this Act, which identifies the sectors of each eligible sub-Saharan African country's economy that show the greatest potential for growth, identifies any barriers that may exist, and makes recommendations on how the United States Government and private sector can provide technical assistance to remove these barriers to maximize AGOA's benefits for U.S. and African investors, businesses, and farmers.

### *Reason for Change:*

The Committee is interested in collecting information that will ultimately assist African countries in developing their trade relationship with each other and with the United States. USTR, with the cooperation of the USITC and other federal agencies, as appropriate, should conduct this study and prepare a report to Congress.

## **Section 10: Activities in Support of Infrastructure to Support Increasing Trade Capacity and Ecotourism**

### *Current Law:*

No provision.

### *Explanation of Provision:*

Section 10 encourages the development of infrastructure projects that increase trade capacity through the ecotourism industry.

### *Reason for Change:*

Members of the Committee on the Congressional Delegation to southern Africa in 2003 noted the abundant wildlife and natural resources possessed by many countries. In order to take advantage of these resources and promote an ecotourism industry, African countries would benefit from improved infrastructure and coordination among neighboring countries.

## **Section 11: Activities in Support of Transportation, Energy, Agriculture, and Telecommunications Infrastructure**

### *Current Law:*

No provision.

*Explanation of Provision:*

Section 11 directs the President to develop policies to encourage investment in: infrastructure projects that support the development of roads, railways, and ports, and the energy and telecommunications sectors; the expansion of modern information and communication technologies; and agriculture, particularly processing and capacity enhancement.

*Reason for Change:*

Members of the Committee on the Congressional Delegation to southern Africa in 2003 noted the importance of infrastructure and economic diversification to countries attempting to develop and enhance their trade relationships with each other and with the United States. The issue was also raised in the Trade Subcommittee's hearing on trade with Africa. This provision directs the President to adopt policies to encourage investment in certain African infrastructure that would facilitate trade.

**Section 12: Facilitation of Transportation**

*Current Law:*

No provision.

*Explanation of Provision:*

Section 12 directs the President to foster improved coordination between customs services at ports and airports in the United States and sub-Saharan countries to reduce time in transit and increase efficiency and safety procedures.

*Reason for Change:*

Members of the Committee on the Congressional Delegation to southern Africa in 2003 noted the importance of sea and airport operations to countries attempting to develop and enhance their trade relationships with each other and with the United States. This provision directs the President to adopt steps to improve African port operations and openness for trade. USTR, with the cooperation of the Bureau of Customs and Border Protection of the U.S. Department of Homeland Security and other federal agencies, as appropriate, should provide resources to accomplish this mandate.

**Section 13: Agricultural Technical Assistance**

*Current Law:*

No provision.

*Explanation of Provision:*

Section 13 directs the President to assign at least 20 full-time personnel for the purpose of providing agricultural technical assistance to select AGOA countries based on their potential to increase marketable agricultural products and their need for technical assistance. While serving in this capacity, they are to advise AGOA countries on improvements in their sanitary and phytosanitary standards to help them meet U.S. requirements.

*Reason for Change:*

African leaders have expressed to the Committee that it is difficult to export agricultural products to the United States owing to high U.S. sanitary and phytosanitary standards. While the Committee firmly supports USTR's position that these standards should not be lowered, the Committee believes it is important to advise and assist African countries on U.S. standards and how to meet them. In carrying out this provision the President shall not dilute or diminish existing personnel resources that are currently managing sanitary and phytosanitary issues for either U.S. commodities seeking to be exported or for interdiction and control of pest and diseases including for the evaluation of pest and disease concerns of foreign commodities seeking access to the U.S. market.

#### **Section 14: Trade Advisory Committee on Africa**

##### *Current Law:*

Presidential Executive Order 11846 of March 27, 1975, under section 135(c) of the Trade Act of 1974, authorizes the creation of a trade advisory committee on Africa.

##### *Explanation of Provision:*

Section 14 directs the Administration to convene the trade advisory committee on Africa in order to maintain ongoing discussions with African trade and agriculture ministries and private sector organizations to facilitate the goals of AGOA and this Act.

##### *Reason for Change:*

The Committee supports the activation of this trade advisory committee on Africa in order to improve the collection of data and diverse comments by the Administration on African trade.

### **III. VOTES OF THE COMMITTEE**

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the vote of the Committee on Ways and Means in its consideration of the bill, H.R. 4103.

#### **A. MOTION TO REPORT THE BILL**

The bill, H.R. 4103, as amended, was ordered favorably reported by voice vote (with a quorum present).

#### **B. VOTES ON AMENDMENTS**

An amendment in the nature of a substitute by Chairman Thomas was agreed to by voice vote.

### **IV. BUDGET EFFECTS OF THE BILL**

#### **A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS**

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of this bill, H.R. 4103 as amended and reported: The Committee agrees with the estimate prepared by CBO which is included below.

#### **B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES**

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that enactment of H.R. 4103 would reduced customs duty receipts due to lower tariffs imposed on goods from eligible African countries.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET  
OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

[Insert CBO letter]





CONGRESSIONAL BUDGET OFFICE  
U.S. Congress  
Washington, DC 20515

*Douglas Holtz-Eakin, Director*

May 10, 2004

Honorable William "Bill" M. Thomas  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4103, the AGOA Acceleration Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Annabelle Bartsch, who can be reached at 226-2680.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Doug Holtz-Eakin', written over the printed name.

Douglas Holtz-Eakin

Enclosure

cc: Honorable Charles B. Rangel  
Ranking Member



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

May 10, 2004

### **H.R. 4103** **AGOA Acceleration Act of 2004**

*As ordered reported by the House Committee on Ways and Means on May 5, 2004*

#### **SUMMARY**

H.R. 4103 would extend the trade benefits available under the African Growth and Opportunity Act (AGOA) that expire in 2008, and the special rule for certain lesser-developed Sub-Saharan countries that expires in September 2004. The Congressional Budget Office estimates that those extensions would reduce revenues by \$3 million in 2004, by \$140 million over the 2004-2009 period, and by about \$365 million over the 2004-2014 period, net of income and payroll tax offsets.

The bill also would direct the President to develop and implement certain policies to promote trade between the countries of Africa and the United States. U.S. agencies are currently undertaking most of these activities under more general authority. Based on information from the U.S. Department of Agriculture and the U.S. Agency for International Development, however, CBO estimates that implementing the bill would require hiring additional personnel and would increase spending by about \$2 million each year, assuming the appropriation of the necessary funds. The bill would not affect direct spending.

CBO has determined that H.R. 4103 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

#### **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of H.R. 4103 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

	By Fiscal Year, in Millions of Dollars					
	2004	2005	2006	2007	2008	2009
<b>CHANGES IN REVENUES</b>						
Estimated Revenues	-3	-30	-33	-36	0	-39
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>						
Estimated Authorization Level	0	2	2	2	2	2
Estimated Outlays	0	1	2	2	2	2

## **BASIS OF ESTIMATE**

### **Revenues**

H.R. 4103 would extend the preferential treatment given to certain U.S. imports from Sub-Saharan Africa under the AGOA program, which currently expires on September 30, 2008. This includes preferential treatment extended under the Generalized System of Preferences. According to the U.S. International Trade Commission, U.S. imports from countries in the region were about \$25 billion in 2003. U.S. imports eligible for duty-free treatment under AGOA totaled about \$14 billion in that year. Those imports consisted largely of energy-related products and textile and apparel goods.

Presently, upon expiration of the program, such imports would face normal trade relation tariff rates. CBO estimates that over the 2009-2014 period, the U.S. would import about \$69 billion worth of products from the region, resulting in \$912 million in customs duties. In the absence of specific data on the extent of any substitution effect, these estimates assume that half of the U.S. imports that would have otherwise been eligible under AGOA would be replaced with goods from other countries receiving preferential treatment under other special import programs.

Under the bill, the AGOA program would be extended an additional seven years, through September 30, 2015. With the extension, CBO estimates that U.S. imports from the region would total about \$212 billion over the 2009-2014 period, with most of the imports facing no duties. CBO estimates that importers would pay \$561 million in customs duties on the imported goods with non-zero duty rates. Consequently, federal revenues would decrease by \$264 million between 2009 and 2014, net of income and payroll tax offsets.

H.R. 4103 also would extend the special treatment that certain lesser-developed Sub-Saharan countries may receive under AGOA. Through September 30, 2004, a lesser-developed country (LDC) may export duty-free to the United States any apparel good that is assembled within the country, regardless of the origin of the fabric or yarn. Nearly all AGOA countries currently have LDC status; those that do not are limited to using fabric and yarn originating in the United States or the AGOA region in order to receive duty-free treatment. The bill would allow LDC countries to receive such special treatment for an additional three years, through September 30, 2007. CBO estimates that the extension would result in \$98 million in forgone revenues from 2005 through 2007, net of income and payroll tax offsets. That amount is highly dependent upon the capability of countries in the AGOA region to manufacture the fabric and yarn needed to receive duty-free access to the U.S. market.

Lastly, H.R. 4103 would refund certain duties already paid on imports from AGOA countries that did not receive duty-free treatment at the time of entry. CBO estimates that the reduction in net customs duties would amount to about \$3 million, all of which would occur in 2004.

### **Spending Subject to Appropriation**

H.R. 4103 would require the President to conduct a study and make recommendations on how the U.S. government and private sector can assist the countries of Africa in dismantling barriers to trade and investment. In addition, the bill would require the President to develop and implement policies to increase trade with African countries through investments in infrastructure and tourism, to coordinate customs services between U.S. and African ports and airports, and to improve sanitary and phytosanitary standards on agricultural products imported from Africa to meet U.S. requirements.

Various U.S. agencies are currently undertaking these activities under more general authority. Based on information from the U.S. Department of Agriculture and the U.S. Agency for International Development, however, CBO estimates that meeting the requirement in the bill for agricultural technical specialists would require hiring an additional 8 persons and that supporting them in Africa would cost between \$200,000 to \$250,000 per person. CBO estimates that implementing H.R. 4103 would increase spending for technical assistance by about \$2 million each year, assuming the appropriation of the necessary funds.

## SUMMARY OF EFFECTS ON REVENUES AND DIRECT SPENDING

The overall effects of H.R. 4103 on revenues and direct spending are shown in the following table.

	By Fiscal Year, In Millions of Dollars										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Changes in receipts	-3	-30	-33	-36	0	-39	-41	-43	-45	-47	-49
Changes in outlays					Not applicable						

## INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

### ESTIMATE PREPARED BY:

Federal Revenues: Annabelle Bartsch

Federal Spending: Joseph Whitehill

Impact on State, Local, and Tribal Governments: Melissa Merrell

Impact on the Private Sector: Paige Piper/Bach

### ESTIMATE APPROVED BY:

G. Thomas Woodward

Assistant Director for Tax Analysis

Peter H. Fontaine

Deputy Assistant Director for Budget Analysis

## **V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

### **A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on public hearing testimony and information from the Administration, conclude that it is appropriate and timely to consider the bill as reported.

### **B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES**

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advise that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

### **C. CONSTITUTIONAL AUTHORITY STATEMENT**

With respect to clause (3) (d) (1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and to provide for \* \* \* the general Welfare of the United States.")

### **D. INFORMATION RELATING TO UNFUNDED MANDATES**

This information is provided in accordance with Section 423 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4).

The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments. The Committee has determined that the bill does not contain Federal mandates on the private sector.

## **VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

[Insert Legislative Counsel Ramsayer]